IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.MC.No. 3860 of 2006()

CRIME NO.61/04 OF MAVOORPOLICE STATION.

PETITIONER: DEFACTO COMPLAINANT/ACCUSED

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1. JAMSHITHA, D/O.P.M.ALIKUTTY,
   AGED 24 YEARS, THYKKOODATH SOBHA HOUSE,
   PYNGATTUPURAM, KUNNAMANGALAM P.O.,
   KUTTIKATTOOR AMSOM DEOSM, KOZHIKODE TALUK.

2. SHOUKKATHALI, (MEKAKOOLIL),
   S/O.MOIDEEN, AGED 33, MEKKAKOLIL HOUSE,
   CHEROOPPA P.O., CHEROOPPA AMSOM, VALAYANAD DESOM,
   KOZHIKODE TALUK, NOW RESIDING AT P.O.BOX NO.26126,
   RIYAD 11486, KINGDOM OF SAUDI ARABIA.

3. HAJARA, W/O.MOIDEEN,
   AGED 67 YEARS, MEKKEKOLIL HOUSE, CHEROOPPA P.O.,
   CHEROOPPA AMSOM, VALAYANAD DESOM,
   KOZHIKODE TALUK.

4. ASHRAF, S/O.MOIDEEN,
   AGED 29 YEARS, MEKKAKOLIL HOUSE, CHEROOPPA P.O.,
   CHEROOPPA AMSOM, VALAYANAD DESOM,
   KOZHIKODE TALUK.

5. ABOOBACKER, S/O.MOIDEEN,
   AGED 47 YEARS, MEKKAKOLIL HOUSE, CHEROOPPA P.O.,
   CHEROOPPA AMSOM, VALAYANAD DESOM,
   KOZHIKODE TALUK.

6. SAKEENA, D/O.MOIDEEN,
   AGED 37 YEARS, MEKKAKOLIL HOUSE,
   CHEROOPPA P.O., CHEROOPPA AMSOM, VALAYANAD DESOM,
   KOZHIKODE TALUK.

7. SHAREEFA, W/O.ABBAS,
   AGED 42 YEARS, VYTHALAKKUNNUMMAL HOUSE,
   P.O.CHEROOPPA, MAVOOR, KOZHKODE TALUK.

BY ADV. SRI.K.M.FIROZ

RESPONDENTS: STATE/DEFACTO COMPLAINANT

THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3860 OF 2006

Dated this the 22nd day of November, 2006

ORDER

This Crl.M.C. is filed by the accused persons and the de facto complainant in a prosecution, inter alia, under Sec.498A of the IPC.

2. Proceedings were initiated on the basis of a private complaint filed by the 1st petitioner/wife against her husband – the 2nd petitioner and petitioners 3 to 7 – relatives of the 2nd petitioner. That complaint was forwarded to the learned Magistrate under Sec.156(3) of the Cr.P.C. and after investigation, final report was filed by the Investigator. Cognizance was taken of the offences punishable under Secs.323, 406 and 498A read with Sec.149 of the IPC. Proceedings are pending before the learned Magistrate.

3. The petitioners have now settled their disputes between them and the 1st petitioner/the de facto complainant has compounded the offences allegedly committed by petitioners 2 to 7. The parties jointly pray, in this Crl.M.C., that the settlement and composition may be accepted and the

proceedings initiated against petitioners 2 to 7 may be quashed. The offence punishable under Sec.498A of the IPC is not compoundable; but it is prayed that the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) may be invoked and the parties having harmoniously settled their matrimonial disputes, they may not be compelled to suffer the trauma of this continued prosecution.

4. The offence under Sec.498A of the IPC is, of course, not compoundable; but notwithstanding the fact that the offence is not compoundable, I am satisfied, invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386), in the interests of matrimonial harmony, the composition can be accepted and it can be reckoned as sufficient ground to prematurely terminate the proceedings under Sec.482 of the Cr.P.C.

5. In the result:

(a) This Crl.M.C. is allowed.

(b) C.C.No.468/05 pending before the Judicial Magistrate of the First Class-I, Kunnamangalam is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge.